

CHAPTER 143

ADOPTION

H. F. 218

AN ACT to amend, revise, and codify section sixty-six hundred eighty-six (6686) and chapter ten (10) of title twenty-six (26) of the compiled code of Iowa, relating to adoption, and master and apprentice.

Be It Enacted by the General Assembly of the State of Iowa:

That section sixty-six hundred eighty-six (6686) and chapter ten (10) of title twenty-six (26) of the compiled Code of Iowa are amended, revised, and codified to read as follows:

Section 1. Consent of parents or judge. If living, and not divorced or separated, the consent of both parents; if divorced, separated or unmarried, the consent of the parent lawfully having the care and providing for the wants of the child; or if either parent be dead then the consent of the survivor; or if both are dead, or if the child has been abandoned, that of the judge of the district court in the county of the residence of such child or where it is living, shall be given to such adoption.

Sec. 2. Contents of instrument of adoption. The consent required by the preceding section shall be given by an instrument in writing, signed by the parties or party consenting, which shall give the name of the parents, if known, the name of the child, if known, the name of the person adopting it, place of residence of all such persons, if known, the name by which such child is thereafter to be called, and shall also state that it is given to the person adopting for the purpose of adoption as his own.

Approved February 8, 1924.

CHAPTER 144

MUNICIPAL COURTS

H. F. 220

AN ACT to amend, revise, and codify sections six thousand eight hundred forty-one (6841) to six thousand eight hundred forty-three (6843), inclusive, six thousand eight hundred forty-five (6845) to six thousand eight hundred eighty-seven (6887), inclusive, six thousand eight hundred eighty-nine (6889), six thousand eight hundred ninety-one (6891) to six thousand eight hundred ninety-five (6895), inclusive, and six thousand nine hundred (6900) of the compiled code of Iowa, and sections six thousand eight hundred forty (6840), six thousand eight hundred forty-four (6844), six thousand eight hundred eighty-eight (6888), and six thousand eight hundred ninety (6890) of the supplement to said code, relating to municipal courts.

Be It Enacted by the General Assembly of the State of Iowa:

That sections six thousand eight hundred forty-one (6841) to six thousand eight hundred forty-three (6843), inclusive, six thousand eight hundred forty-five (6845) to six thousand eight hundred eighty-seven (6887), inclusive, six thousand eight hundred eighty-nine (6889), six thousand eight hundred ninety-one (6891) to six

thousand eight hundred ninety-five (6895), inclusive, and six thousand nine hundred (6900) of the compiled Code of Iowa, and sections six thousand eight hundred forty (6840), six thousand eight hundred forty-four (6844), six thousand eight hundred eighty-eight (6888), and six thousand eight hundred ninety (6890) of the supplement to said Code are amended, revised, and codified to read as follows:

Section 1. Municipal court established - district defined. A municipal court may be established in any city having a population of five thousand (5,000) or more, by proceedings as hereinafter provided. All the civil townships in which such city or any part thereof is located shall constitute the municipal court district.

Sec. 2. Election - how secured. Upon the filing with the city clerk of a petition of not less than fifteen per cent (15%) of the qualified electors as shown by the poll list in the last municipal or state election of any municipal court district, the mayor shall, by proclamation published once a week for three (3) consecutive weeks in two (2) newspapers of general circulation published in said municipality, or, if two (2) such newspapers be not published, then in one (1) such newspaper, submit the question of establishing a municipal court at a general, municipal, or special election to be held at a time specified therein, which time shall be within two (2) months after said petition is filed. If the said proposition is not adopted at such election, said question shall not be re-submitted to the voters of said district within two (2) years thereafter.

Sec. 3. Polling places. The city council shall for all elections provided for in this chapter designate and provide polling places, select judges and clerks of the election, and furnish booths and ballots for the voters residing in each such township outside the limits of such city; but no registration of such voters shall be required.

Sec. 4. Question submitted - election - certifying result. At such election the proposition to be submitted shall be, "Shall the proposition to establish a municipal court in the city of (name of city) be adopted?" The election shall be conducted, the vote canvassed, and the result declared in the manner provided by law in respect to other municipal elections. If the majority of the votes cast on said proposition be in favor thereof, said municipal court shall be deemed established. Immediately after such proposition is adopted, the mayor shall transmit to the governor, the secretary of state, and the county auditor, each, a certificate showing that such proposition was adopted.

Sec. 5. Number of judges. In any municipal court district having a population of less than thirty thousand (30,000), wherein a municipal court has been established, there shall be one (1) municipal judge; in districts having more than thirty thousand (30,000) and less than fifty thousand (50,000) inhabitants, there shall be two (2) municipal judges; in districts having more than fifty thousand (50,000) inhabitants there shall be one (1) municipal judge for each thirty thousand (30,000) inhabitants or major fraction thereof, but no district shall have more than four (4) judges.

Sec. 6. Appointment of officers. Whenever such court has been established, or whenever any city becomes entitled to an additional judge of such court, the governor shall appoint a judge to fill the position until the beginning of the regular term of office succeeding the next election, or until his successor is elected and qualified. Under like conditions or if for any other reason a vacancy shall exist the other elective officers of the court shall be appointed by the mayor with the approval of the city council.

Sec. 7. Qualification of officers - duties. Each officer of the court shall be a qualified elector residing in the municipal court district. The judge shall be a practicing lawyer, and shall subscribe to the oath required of judges of the district court, which shall be filed with the city clerk. The duties of the clerk and the bailiff shall be the same, so far as applicable, as those of the clerk of the district court, and of constables and sheriffs, respectively. All regular police officers shall be ex officio special bailiffs when so ordered by a judge, without other compensation than that paid for their services as police officers.

Sec. 8. Deputy clerks and bailiffs - how appointed - salary. The clerk and bailiff, with the approval of the city council, shall each have power to appoint such deputies as may be necessary to transact the business of the court, whose salaries shall be fixed by the city council.

Sec. 9. Bonds. The clerk of the court, the deputy clerks, the bailiff, and the deputy bailiffs shall give such bonds as may be required by the city council, which bonds shall be filed with and approved by the city clerk.

Sec. 10. Officers - election and appointment. Whenever a municipal court has been established, there shall be elected at the following city election a judge or judges thereof; also a clerk and bailiff unless the council shall appoint the city clerk to act as clerk and a policeman to act as bailiff thereof.

Sec. 11. Qualification of officers - term. The elective officers of the court shall qualify, and their term of office shall begin, on the first Monday after their election. They shall serve for a term of four (4) years. If the city clerk acts as clerk or a policeman as bailiff, the council shall determine whether or not they shall have compensation additional to their regular salaries, and fix the same if allowed.

Sec. 12. Nomination and election of officers. The elective officers of the court shall be nominated and elected in the manner provided by law for the nomination and election of other elective officers of the city in such district, except as herein otherwise provided. At all primary and general municipal elections at which officers of the court are to be nominated or elected, as the case may be, there shall be a separate ballot entitled "The Municipal Judiciary Ballot" upon which shall be placed in alphabetical order the names of the candidates without party designation, and the number of judges, clerks, and bailiffs for whom each elector is entitled to vote shall be designated thereon.

Those receiving the highest number of votes at the primary election if one be held shall be nominated for such offices to the extent of twice the number to be filled, if that many or more candidates are voted for at such primary.

Sec. 13. Court of record - records. The court shall be a court of record, and shall have a seal with the words "Municipal court of
.....(inserting name of city), Iowa" thereon. The records of the court shall be kept in substantially the same form and manner as the records of the district court.

Sec. 14. Concurrent jurisdiction with district court. It shall have concurrent jurisdiction with the district court in all civil matters where the amount in controversy does not exceed one thousand dollars (\$1,000.00), except in probate matters, actions for divorce and alimony and separate maintenance, juvenile proceedings unless otherwise authorized, and those directly affecting the title to real estate.

Sec. 15. Jurisdiction. criminal matters. In all criminal matters, the court shall exercise the jurisdiction conferred on justice of the peace courts,

mayor's courts, and police courts, except that the mayor's court of any incorporated city or town within such municipal court district other than the city in which said court is established shall have exclusive jurisdiction of prosecutions for the violations of the ordinance of such town.

Sec. 16. Powers of court and judges. In all matters of which the municipal court has jurisdiction, the court and the judges shall have the same powers in reference to injunctions, writs, orders, and other proceedings in and out of court as are possessed by the district court and the judges thereof.

Sec. 17. Inferior courts abolished. Upon the qualification of the officers of the municipal court, the police court, mayor's court except in incorporated city or towns other than the city in which said court is established justice of the peace courts, and the superior court, in and for the municipal court district, and the offices of police judge, clerk of police court, justices of the peace, constables, judge and clerk of the superior court, shall be abolished.

Sec. 18. Transfer causes and records to district court. All causes pending in the superior court of which the district court has original jurisdiction shall be forthwith transferred to the district court and there be docketed, and all records and papers pertaining to the same delivered to and preserved by the clerk.

Sec. 19. Other causes and records transferred to municipal court. All other causes pending in the superior court and all causes pending in the police court, mayor's court, except for violation of ordinances of incorporated cities or towns other than that in which said court is established, and justice of the peace courts shall forthwith be transferred to the municipal court and there docketed, and all records and papers pertaining to such causes shall be delivered to the clerk thereof, except that certified copies of such records as have been filed in the district court may be filed with the clerk of the municipal court in lieu of original records.

Sec. 20. Records transferred to municipal court. All records and papers of the superior court, police court, mayor's court, except for violation of ordinances of incorporated cities or towns in which said court is established, and justice of the peace courts, not transferred under the two (2) preceding sections, shall be transferred to the municipal court.

Sec. 21. Certified copies of records. The clerk of the district court shall have full power to certify and transcript such records of the superior court as come into his possession; and the clerk of the municipal court shall have full power and authority to certify and transcript such records and certified copies thereof as may come into his possession, and certified copies made by him of said certified copies filed with him shall have the same force and effect as though they were certified copies of the original records.

Sec. 22. Sessions continuous - absence of judge - substitute. There shall be no terms of court, and the court shall be open for business twelve (12) months of the year. There shall always be one (1) judge present each day to hold court and issue such writs and orders as are required. In case of inability of any judge to act, any other judge of any municipal or district court may hold court during such inability; or the governor may appoint a judge to hold court during such inability, who shall have the same qualifications and shall be paid the same salary and in the same manner as the regular judge.

Sec. 23. Laws applicable - rules. All provisions of law relating to the district court and the judges and jurors thereof shall, so far as applicable and when not inconsistent with this chapter, apply to the municipal court and the judges thereof. The judges of the municipal court shall adopt and promulgate

rules of practice which shall conform, as nearly as may be, to the rules of the district court of the district in which said municipal court is located. If not established by statute or rule, the judge hearing the cause may prescribe the method of procedure.

Sec. 23-a1. Change of venue. All provisions of the law relating to change of venue from the district court shall govern so far as applicable changes of venue from the municipal court.

Sec. 24 . Causes of action - how divided. Causes of action within its jurisdiction shall be divided into the following classes:

Class "A" shall include all equitable actions, actions of forcible entry and detainer, and all ordinary actions, when the amount in controversy exceeds one hundred dollars (\$100.00), and all special actions of which the court has jurisdiction.

Class "B" shall include all ordinary actions when the amount in controversy is one hundred dollars (\$100.00) or less.

Class "C" shall include the trial of all public offenses of which this court has jurisdiction, other than for the violation of the city ordinances.

Class "D" shall include all criminal actions for the violation of city ordinances.

Sec. 25. Filing petition - pleadings. The petition in class "A" cases must be filed with the clerk of the court not less than five (5) days before the date set in the original notice for the appearance of the defendant and unless so filed the defendant shall not be held to appear and answer. Pleadings in class "B" cases shall be the same as for civil actions in justice of the peace courts.

Sec. 26. Return day. In all civil actions, the original notice shall require the defendant, if served within the county, to appear and answer not less than five (5) nor more than fifteen (15) days from the day of service thereof; if served without the county, not less than ten (10) nor more than twenty (20) days from the day of service thereof.

Sec. 27. Criminal actions - how tried. All criminal actions for the violation of city ordinances shall be tried summarily and without a jury. All other criminal actions shall, except as otherwise provided in this chapter, be triable in the same manner as criminal actions in justice of the peace or other courts having jurisdiction thereof. Prisoners may be committed to either the city or county jail, or they may be paroled, or their sentence suspended, at the discretion of the court.

Sec. 28. Witness fees. In class "A" cases witnesses shall receive the same fees as witnesses in the district court. In class "B", "C", and "D" cases, witness fees shall be the same as in justice of the peace courts. In class "C" and "D" cases, no witness fees shall be paid to any regular police officer of said city, any clerk of said court or his deputy, or any bailiff thereof or his deputy.

Sec. 29. Fees, costs, and expenses. If no provision is made in the laws applicable to the district court for fees, costs, and expenses, they shall be the same as in justice of the peace courts. The bailiff may retain the amount allowed to him by law for mileage and necessary actual expenses in addition to his salary. All other fees, fines, forfeitures, costs and expenses shall be turned over to the city treasurer by the officer collecting the same on or before the tenth day of each succeeding month and the city treasurer shall forthwith pay to the county treasurer for the benefit of the school fund the portion of the fines and forfeitures collected for the violation of state laws.

Sec. 30. Jury commission . The city clerk and the city auditor, or in

cities not having both such officers then the city clerk and the city treasurer, and the clerk of the municipal court shall constitute the jury commission. They shall receive no additional compensation, but necessary expenses incurred in the performance of their duties shall be allowed and paid from the city treasury.

Sec. 31. Jury list. The commission, in presence and under the supervision of the judge of said court, if only, one, and if more than one, a judge of said court designated by the judges thereof, shall, on the establishment of the court prepare from the poll books of the last preceding general election in the territory included in the municipal court district, a list equal in number to one-tenth (1/10) of all electors thereon qualified for jury service, which shall be known as the "jury list"; and shall before the last Monday in April following the general municipal election thereafter prepare such a list from the poll books of the preceding general municipal election.

Sec. 32. Jury list book. The name of each person on said list shall be entered in alphabetical order in a book kept for that purpose, and opposite each name shall be entered the person's place of residence, giving his street and number or other definite location if possible. The book shall be kept in the office of the city clerk, and shall be open to the public for inspection and investigation. The jury list may be revised annually on order of the judge.

Sec. 33. Jury - how drawn - when. When the jury commission shall have completed such jury list, each name contained thereon shall be prepared and deposited in a jury box in the manner required in the district court, which jury box, after being sealed by the jury commissioners, shall be deposited with and remain in the custody of the clerk of the court. On the last Monday of each month, the jury commission shall, in open court and in the presence of the judge or judges, break the seal on said jury box, and draw therefrom the number of names ordered by the court, to constitute the jury panel for the succeeding month.

Sec. 34. Jury summons - mileage. The clerk of the municipal court shall forthwith issue a summons to each person drawn to appear in court at such time during the succeeding month as may be ordered by the judge or judges. At such time each juror shall be called and all excuses heard and determined. Jurors shall not be allowed mileage.

Sec. 35. Jurors to serve one month - exemptions. The clerk of the court shall, at the end of each month, check off the jury list the names of all jurors who have served during that month, and such names shall not be again deposited in the jury box until after a new jury list has been prepared, but the names of those who have been drawn and excused from service shall be again deposited therein. Jurors in the district court shall be exempt from service in the municipal court during the biennium in which service was rendered in the district court.

Sec. 36. Jurors - number - demand for jury. Demand for trial by jury may be made as provided by rule of court, and if not so made, the cause shall be tried by the court. The jury shall consist of six (6) jurors, unless, in class "A" cases, a jury of twelve (12) is demanded. The party demanding a jury of twelve (12) must at the time deposit with the clerk the sum of six dollars (\$6.00).

Sec. 37. Peremptory challenges in jury of six. In all cases where the jury consists of six (6) jurors the clerk shall select eight jurors by lot from the regular panel or additions thereto. Each party shall have the right to peremptorily challenge two (2) jurors and strike off one (1) juror. After all challenges have thus been exercised or waived and two jurors have been stricken from the list the clerk shall read the names of the six jurors re-

maining who shall constitute the jury selected.

Sec. 38. Instructions. In all criminal actions and in all civil actions triable to a jury where the amount in controversy exceeds one hundred dollars (\$100.00), the judge shall instruct the jury in writing. Where the amount in controversy in civil actions is one hundred dollars (\$100.00) or less, the instructions may be oral.

Sec. 39. Entry judgment - jurisdiction - setting aside default. Judgments shall be rendered and entered upon the record in all cases within ten (10) days after final submission of the cause, unless for good cause the court extends the time. The court shall retain jurisdiction for the purpose of correction of errors of the court or in the record for ten (10) days after the entry of final judgment. Motions to set aside defaults may be made within ten (10) days after the entry thereof. Motions to vacate a judgment or order because of irregularity in obtaining it must be made within ninety (90) days from the entry thereof.

Sec. 40. Judgment liens. Judgments of the court may be by it enforced the same as judgments of the district court, except that no real property shall be levied on or sold on process issued out of said court. Judgments may be made liens on real estate in the county by filing transcripts thereof in the district court, which thereafter shall have exclusive jurisdiction for the enforcement of such judgments as though rendered in the district court as of the date of filing in said court.

Sec. 41. Appeals. The laws relating to appeals from judgments or orders of the district court or a judge thereof to the supreme court shall apply to judgments or orders of the municipal court, or a judge thereof, in all civil actions. In class "C" actions, appeals shall be taken direct to the supreme court the same as from the district court. In class "D" actions appeals shall be taken to the district court as provided in the case of appeals from justice courts.

Sec. 42. Judgments superseded. Whenever a judgment of the court is appealed from and superseded and a transcript of the judgment has been, or thereafter shall be, filed in the district court, the clerk of the municipal court shall certify such fact to the clerk of the district court thereof, who shall note the same on the docket entry of the cause, which shall have the same effect as though the cause had been appealed from and superseded in the district court. Whenever further action is taken in such causes in the municipal court, the same shall be certified to the clerk of the district court, who shall note the same on the docket entry of said cause.

Sec. 43. Shorthand reporter. Each judge of the municipal court may appoint a shorthand reporter. All provisions relating to shorthand reporters and their duties in the district court, in so far as applicable, shall govern, except their compensation which shall be fixed by order of the court not exceeding eight dollars (\$8.00) per day, for the time actually engaged in their court duties, and shall be paid one-half by the county and one-half by the city.

All actions included in class "A" hereof, may be reported the same as in the district court, and the reporter's fees shall be taxed therein as costs.

The transcript fees paid reporters shall be the same as in the district court, and may be taxed as part of the costs on appeal.

Sec. 44. Report of preliminary examinations. The judge may order the testimony offered upon preliminary examinations taken down and certified by the shorthand reporter and a transcript of the testimony of the witnesses upon such preliminary examination, or the substance of their testimony, prepared by such

reporter and filed in the district court with the transcript of proceedings on such preliminary examination. The fees for reporting such preliminary examinations and for transcript of the testimony shall be the same as allowed in civil causes, and shall be taxed as part of the costs in the case.

Sec. 45. No report in class "B" actions - when. No reporter shall be provided for in the trial of actions in class "B" unless the party demanding the same shall pay the fees of the reporter to the clerk in advance, which shall be taxed as costs in the case, unless otherwise ordered by the court.

Sec. 46. Salary. The annual salary of each municipal judge shall be three thousand dollars (\$3,000.00) in cities of less than thirty thousand (30,000) inhabitants; three thousand four hundred dollars (\$3,400.00) in cities of thirty thousand (30,000) and less than seventy-five thousand (75,000) inhabitants; and three thousand six hundred dollars (\$3,600.00) in cities of seventy-five thousand (75,000) or more inhabitants.

Each clerk shall receive an annual salary of eighteen hundred dollars (\$1,800.00) in cities of less than thirty thousand (30,000) inhabitants; twenty-two hundred dollars (\$2,200.00) in cities of thirty thousand (30,000) and less than seventy-five thousand (75,000) inhabitants; and twenty-six hundred dollars (\$2,600.00) in cities of seventy-five thousand (75,000) or more inhabitants.

Each bailiff shall receive an annual salary of fifteen hundred dollars (\$1,500.00) in cities of less than thirty thousand (30,000) inhabitants; seventeen hundred fifty dollars (\$1,750.00) in cities of thirty thousand (30,000) and less than seventy-five thousand (75,000) inhabitants, and two thousand dollars (\$2,000.00) in cities of seventy-five thousand (75,000) inhabitants or over.

The deputy clerks and deputy bailiffs shall receive such compensation as the city council may allow.

The salaries of municipals judges, clerk, bailiff and all deputies shall be paid monthly on the first Monday of each month. For the first month such salary shall be paid from the city treasury and the second month such salary shall be paid from the county treasury. Each month thereafter such payments shall alternate from the city to the county treasury in like manner.

Sec. 47. City to provide rooms. The city council shall provide suitable place for holding said court, and such other rooms and offices as may be necessary for the transaction of the business of said court. All of the other expenses of maintaining said court not otherwise provided for in this chapter shall be paid from the city treasury.

Sec. 48. Abolishing municipal courts. When a municipal court shall have been established for more than four (4) years, it may be abandoned by proceeding as follows: Upon the filing with the city clerk of a petition of not less than fifteen per cent (15%) of the qualified electors of such municipal court district as shown by the poll lists of the last municipal or state election, the mayor, by proclamation, shall submit such proposition at a general election. If the majority of votes cast at such election be in favor of the proposition of abandoning the court, the officers elected at the next succeeding general election shall be those prescribed by law for such cities and townships, and upon the qualification of such officers such municipal court shall be abolished.

Sec. 49. Municipal court buildings authorized. Cities having a population of fifty thousand (50,000) or over shall have the power to erect a municipal court building, and to purchase the grounds therefor, such building when constructed to be used for the housing of the municipal court and such other like purposes as the council from time to time may by ordinance direct, including the housing and retention of persons charged with offenses against the laws of the city and the state. Provided, that no such grounds shall be purchased nor any building erected

thereon until the question has been submitted to the people at a regular or special election, and approved by majority of the votes cast at such election voting on said question.

Sec. 50. Tax levy authorized. For the purpose of paying for the construction of such building, and the purchase price of such grounds, such city shall have the power to levy upon all the property within the corporate limits of such cities, subject to taxation, in addition to all other taxes provided by law, a special tax not exceeding in any one (1) year one (1) mill on the dollar for a period of years not exceeding fifty (50).

Approved April 14, 1924.

CHAPTER 145

SUPERIOR COURTS

H. F. 221

AN ACT to amend, revise, and codify sections six thousand nine hundred eight (6908), six thousand nine hundred eleven (6911) and six thousand nine hundred thirty-four (6934) of the compiled code of Iowa, relating to superior courts.

Be It Enacted by the General Assembly of the State of Iowa:

That section six thousand nine hundred eight (6908) of the compiled Code of Iowa is amended, revised, and codified to read as follows:

Section 1. Submission to voters. Upon petition of one hundred (100) citizens of any such city, the mayor, by and with the consent of the council, may, at least ten (10) days before any general or city election, issue a proclamation submitting to the qualified voters of any city the question of establishing said court. Should a majority of all the votes cast upon such proposition be in favor of said court, the same shall be deemed established.

Sec. 2. Governor to appoint judge. Whenever such court has been established, the governor shall appoint a judge, who shall hold office until the day following the first Monday in May succeeding the next regular city election and until his successor is elected and qualified.

Sec. 3. Judges - terms of office - commission. Each judge hereafter elected shall hold office for four years from the first Monday in May next succeeding his election and shall be elected at the regular municipal election next preceding the expiration of the term of the incumbent as herein extended. The term of each present incumbent is extended until the first Monday in May next succeeding the city election first following the expiration of the term for which he was elected. The mayor shall transmit his certificate of election of such judge to the governor who shall thereupon issue to him the commission empowering him to act as judge.

That section six thousand nine hundred eleven (6911) of the compiled Code of Iowa is amended, revised, and codified to read as follows:

Sec. 4. Vacancy. In case of vacancy in said office the governor shall appoint a judge who shall hold office until the next city election, and in case of inability of any judge to act through sickness or any other cause, a judge shall be appointed by the governor to hold office during such inability.